

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Kevin Tyrone Bennett,)
)
 Plaintiff,)
) Civil Action No. 6:20-cv-198-BHH
 v.)
)
 Dr. Wimberly, Dr. Richter,)
)
 Ms. Monique, Trina Hall, Markayla)
 Blackmon, Sgt. Dixon, Major Darling,)
)
 Defendants.)
 _____)

ORDER

This matter is before the Court upon Plaintiff Kevin Tyrone Bennett's ("Plaintiff" or "Bennett") amended complaint filed pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), the matter was referred to a United States Magistrate Judge for preliminary determinations.

On May 18, 2020, Magistrate Judge Kevin F. McDonald issued a report and recommendation ("Report") outlining Plaintiff's claims and recommending that the Court

dismiss with prejudice the conditions of confinement claims that Plaintiff omitted from his amended complaint and dismiss Defendants Dr. Wimberly, Dr. Richter, Ms. Monique, Sgt. Dixon, and Maj. Darling. In addition, the Report recommends that the deliberate indifference claim against Defendants Markayla Blackmon and Trina Hall be served. As to the remaining claims in Plaintiff's amended complaint, the Report recommends that the Court dismiss them with prejudice and without issuance and service of process because Plaintiff's amended complaint fails to cure the deficiencies previously identified by the Magistrate Judge. Attached to the Magistrate Judge's Report was a notice advising Plaintiff of the right to file written objections to the Report within fourteen days of being served with a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of

specific objections, the Court reviews the matter only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections were filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge’s analysis.

Accordingly, the Court adopts and specifically incorporates the Magistrate Judge’s Report (ECF No. 45). As a result, the Court dismisses with prejudice the conditions of confinement claims that Plaintiff omitted from his amended complaint and dismisses Defendants Dr. Wimberly, Dr. Richter, Ms. Monique, Sgt. Dixon, and Maj. Darling. The deliberate indifference claim against Defendants Markayla Blackmon and Trina Hall shall be served, and the Court dismisses with prejudice the remaining claims in Plaintiff’s amended complaint based on Plaintiff’s failure to cure the deficiencies previously identified by the Magistrate Judge. See *Workman v. Morrison Healthcare*, 724 F. App’x

280, 281 (4th Cir. 2018) (citing *Goode v. Cent. Va. Legal Aid Soc'y, Inc.*, 807 F.3d 619, 630 (4th Cir. 2015)).

IT IS SO ORDERED.

/s/Bruce H. Hendricks

The Honorable Bruce Howe Hendricks
United States District Judge

July 6, 2020
Charleston, South Carolina